

REMARKS

This Amendment is being filed in response to the final rejection dated July 14, 2005. No new matter is introduced by this amendment. The claims have been amended to correct the Examiner-asserted informalities. Support for the amendments is found throughout the specification and drawings. For the following reasons this application should be allowed and the case passed to issue.

Claims 1-16 and 21-23 are pending in this application. Claims 8-20 are rejected. Claims 8-20 are subject to an election of species requirement. Claims 1-7 and 21-23 are withdrawn pursuant to a restriction requirement. Claims 8, 14, and 15 have been amended. Claims 17-20 have been canceled.

Election of Species

The Examiner has imposed an election of species requirement. The Examiner averred that there are two species of the claimed invention: Fig. 11(b) and the species described on page 17, line 12 to page 18, line 3 of the specification.

In response to this election of species requirement, Applicants elect the species of Fig. 11(b). Claims 8-16 read on the species of Fig. 11(b).

Objection to the Drawings

The drawings are objected to under 37 C.F.R. § 1.83(a) because the species of claims 17-20 is allegedly not illustrated. This objection is traversed, and reconsideration and withdrawal thereof respectfully requested.

This objection is moot, as claims 17-20 have been canceled without prejudice.

Claim Rejections Under 35 U.S.C. § 112

Claims 8-20 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite because the preambles of claims 8¹ and 15 state that a “a strut positioning system” is being claimed, yet the claims later recite a “gas” strut, however dependent claims 9 and 16 recite that the strut is optionally a gas, hydraulic, or spring strut.

Further, the Examiner rejected claims 8, 14, and 19 because of the limitations, “said pinion gear being rotatably mounted in a fixed position on the lateral side of the opening,” “said strut are provided along another one of the first lateral side and the second lateral side,” and “a track is provided on each of the first and second lateral sides” in claims 8, 14, and 19, respectively. The Examiner asserted that these limitations indicate that the combination of the opening, floor, and ladder is being claimed.

The Examiner additionally maintained that it was unclear whether “a track” in claim 19 is different from the track recited in claim 15, and whether “a linear pawl” in claim 19 is different from the linear pawl recited in claim 18. The Examiner further indicated that there was not antecedent basis for “said rack plate” and “said means for locking the rack plate” in claim 20.

These rejections are traversed, and reconsideration and withdrawal thereof respectfully requested.

As regards claims 17-20, the rejection of these claims is moot, as these claims have been canceled.

As regards claims 8 and 15, the term “gas” before “strut positioning system” has been deleted to correct the asserted informality. In addition, the specification has been amended to correct this informality. Claim 8 has been further amended, along with claim 14, to clarify that

¹ The rejection states claims 1 and 15, however, it is clear that the Examiner intended to recite claims 8 and 15.

it is the strut positioning system that is claimed. In addition, claim 14 is amended to clarify that two racks, rack plates, locking devices, struts, and pinion gears are required.

Applicants submit that the claims fully comport with the requirements of 35 U.S.C. § 112. As the rejections under 35 U.S.C. § 112 and the objections have been fully addressed, and there are no rejections based on prior art, Applicants submit this application is in condition for allowance.

The Examiner concluded that our arguments presented in the response filed April 25, 2005, were either insincere or further clouded the boundary of the invention. The Examiner's mischaracterization of Applicants' previous response is strenuously traversed. The response filed April 25, 2005, was a bona fide attempt to respond to all the rejections raised by the Examiner in the first Office Action.

In view of the above amendments and remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Bernard P. Codd

Bernard P. Codd
Registration No. 46,429

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BPC:MWE
Facsimile: 202.756.8087
Date: October 14, 2005

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